quent in payment of taxes, and a tax deed was issued to the county, which conveyed to defendant's grantor. Thereafter plaintiff paid all the taxes and after seven years brought suit to clear his title. By statute, one "having color of title made in good faith to vacant and unoccupied lands" shall, having paid taxes seven years, be deemed the owner (1915 REM. CODE, [Wash.] § 789). *Held*, that plaintiff had color of title, and judgment should therefore be in his favor. *Bassett* v. *City of Spokane*, 168 Pac. 478 (Wash.).

It seems settled that if the writing under which color of title is claimed is adjudicated void in an action to which the claimant is a party, he no longer holds under color of title within the meaning of the short limitation statutes. *May* v. *Sutherlin*, 41 Wash. 609, 84 Pac. 585; *Sholl* v. *German Coal Co.*, 139 Ill. 21, 28 N. E. 748. It has also been held that color of title is divested by a sale of the land on execution. *Wilson* v. *Brown*, 134 N. C. 400, 46 S. E. 762. But where the claimant continues to hold the land believing the sale invalid, it is not divested. *Gaines* v. *Saunders*, 87 Mo. 557. The theory underlying these decisions would seem to be that color of title remains, but that an adjudication or sheriff's sale is *prima facie* evidence that the claimant does not hold in good faith. The test of good faith is subjective. *Lee* v. *O'Quinn*, 103 Ga. 355, 30 S. E. 356. Therefore the *prima facie* case made out by the decree or sale is rebuttable by any proof that the claimant believed his deed was still valid, however unreasonably. *Gaines* v. *Saunders*, *supra*. In the May case, where the decision was expressly based on want of good faith, the court seems to have thought the decree made out a conclusive case, but as there was no rebutting evidence of good faith it cannot be taken as an authority to that effect. *May* v. *Sutherlin*, *supra*. So the distinction made in the principal case between *in personam* adjudications of title and judgments *in rem*, which seems to have no basis on principle, is not borne out by the decisions. In the principal case good faith was not in issue, but if it had been, then under this view plaintiff must have affirmatively proved good faith in order to prevail.

CONFLICT OF LAW — EQUITY — ORDERING AFFIRMATIVE ACTION OUTSIDE THE JURISDICTION TO PREVENT A TORT WITHIN. — In a case involving the respective rights of the plaintiff and the defendant to water from an interstate stream, the United States District Court of Idaho ordered the defendant to install automatic measuring devices in its irrigation ditches in Nevada, and decreed that the plaintiff should have the right perpetually to go upon the defendant's land in Nevada for the purpose of inspecting them. An appeal was taken to the Circuit Court of Appeals. *Held*, that the action of the District Court be sustained. *Vineyard Land and Stock Co.* v. *Twin Falls Salmon River Land and Water Co.*, 245 Fed. 9.

For a discussion of this case, see Notes, page 647.

CONSIDERATION — WHAT CONSTITUTES CONSIDERATION — PERFORMANCE OF A PREËXISTING CONTRACT. — The daughter of the defendant was engaged to be married. The defendant promised her intended husband, that, if the marriage took place, he would pay his daughter an annuity. They were married, and the assignee of the husband and wife sued on the promise. *Held*, that he may recover. *De Cicco* v. *Sweitzer*, 58 N. Y. L. J. 633.

The finding by the lower court of an intent to contract removes the possibility of a conditional gift. See *Kirksey* v. *Kirksey*, 8 Ala. 131. The beneficiary has the right to sue in New York. *Lawrence* v. *Fox*, 20 N. Y. 268; *Buchanan* v. *Tilden*, 158 N. Y. 109, 52 N. E. 724. The question in the case is the validity of the consideration. An act which the promisee is legally bound to perform is not valid consideration for the promise of a third person. *Arend* v. *Smith*, 151 N. Y. 502, 45 N. E. 872. But see Samuel Williston, "Consideration in Bilateral Contracts," 27 HARV. L. REV. 503. However, in the present case the act

called for, marriage, was the joint act of the promisee and beneficiary. Although each was bound to the other, together they were not bound to anyone. In marrying, they performed an act which no one had a legal right to call upon them to do, and which, therefore, was good consideration. It is immaterial that the consideration did not move from the promisee. *Rector, etc. of St. Mark's* v. *Teed*, 120 N. Y. 583, 24 N. E. 1014; *West Yorkshire Darracq Agency* v. *Coleridge*, [1911] 2 K. B. 326. There was, therefore, no necessity to make the parties out joint promisees, as the court attempted to do.

CONSTITUTIONAL LAW — CONSTRUCTION OF CONSTITUTION — SCOPE OF HOME RULE AMENDMENT. — The Ohio constitution provides that "every white male citizen of the United States, of the age of twenty-one years . . . shall have the qualification of an elector, and be entitled to vote at all elections." (OHIO CONSTITUTION, Article V, § 1.) A constitutional amendment provides that "municipalities shall have authority to exercise all powers of local self government." (OHIO CONSTITUTION, Article XVIII, § 3.) A city charter gave women the right to vote for municipal officers. *Held*, that the provision of the charter is valid. *State ex rel. Taylor* v. *French*, 117 N. E. 173 (Ohio).

It has frequently been held that constitutional provisions concerning the elective franchise apply only to offices created by the constitution. *Hanna* v. *Young*, 84 Md. 179, 35 Atl. 674; *State* v. *Hanson*, 80 Neb. 724, 115 N. W. 294; *Scown* v. *Czarnecki*, 264 Ill. 305, 106 N. E. 276. *Contra*, *Coggeshall* v. *City of Des Moines*, 138 Iowa, 730; 117 N. W. 309; *Allison* v. *Blake*, 57 N. J. L. 6, 29 Atl. 417. *Cf. State* v. *Halliday*, 61 Ohio St. 171, 55 N. E. 175. However, the court expressly disclaims resting its decision on that ground. The decision must then rest on the ground that the constitutional provision is not intended as an exhaustive statement of who may vote, though this does not clearly appear. If that doctrine is sound, it is not perceived what limit there would be upon the legislature enacting state-wide woman's suffrage. Both authority and sound reason would seem opposed to such a construction of the constitution. *McCafferty* v. *Guyer*, 59 Pa. 109. See COOLEY, CONSTITUTIONAL LIMITATIONS, 7 ed., 902. It is generally held that the legislature may confer upon women the right to vote for members of a school board. *State* v. *Board of Election*, 9 Ohio C. C. 134, affirmed by a divided court, in 54 Ohio St. 631, 47 N. E. 1114; *Belles* v. *Burr*, 76 Mich. 1; *Wheeler* v. *Brady*, 15 Kan. 26. But this is because of the extensive powers given to the legislature in school matters, and goes no further. See *State* v. *Board of Elections*, *supra*, 138; *State* v. *Adams*, 58 Ohio St. 612, 616, 51 N. E. 135, 136. *Cf. Coffin* v. *Election Commissioners*, 97 Mich. 188, 56 N. W. 567. One more possible basis upon which the decision might rest is, that in so far as they conflict, the Home Rule amendment repeals the original provision of the constitution. It is improbable that this was the intent of the people in adopting the amendment. In 1912, the people of Ohio rejected state-wide woman's suffrage by a vote of 336,000 to 249,000. It was again defeated in 1914 by a majority of 189,000. In 1917, a law giving the franchise to women in presidential elections was submitted to a referendum and defeated. Further, if this is a sound construction of the amendment, a city might extend the suffrage to lunatics, criminals, and minors, and conversely it might confine it to women. If the word "male" were stricken from the constitution, a city might still restrict the suffrage in municipal elections to men. Such a result can hardly have been contemplated. The decision is difficult to support either on principle or authority.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — FINALITY OF ORDER OF PUBLIC SERVICE COMMISSION. — The Public Service Commission of New York, after a hearing at which testimony was introduced and the case was argued, ordered a gas company to provide gas service to an outlying district. The lower